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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,217	11/18/2005	Masaomi Tajimi	RCK-40	2662
35969	7590	10/10/2007		
JEFFREY M. GREENMAN BAYER PHARMACEUTICALS CORPORATION 400 MORGAN LANE WEST HAVEN, CT 06516			EXAMINER O DELL, DAVID K	
			ART UNIT 1625	PAPER NUMBER
			MAIL DATE 10/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary

Application No.

10/537,217

Applicant(s)

TAJIMI ET AL.

Examiner

David K. O'Dell

Art Unit

1625

All participants (applicant, applicant's representative, PTO personnel):

(1) David K. O'Dell.

(3) Paul Howard.

(2) Rita Desai. *RD*

(4) David Madge & Jason Chumney.

Date of Interview: 02 October 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: All.

Identification of prior art discussed: _____.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

RD

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

[Signature]
Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The applicant's took issue with the outstanding office action, primarily with the rejection under 112 1st paragraph for enablement. The examiner had the applicant clarify the meaning of some of the terms for substituents and various terms that were rejected under 112 2nd paragraph. With regard to the enablement rejection for the compounds on how to make, the applicant's defended the prophetic syntheses and stated that the required starting materials for the scope of the claims were available, and that no technical problems existed. They offered to submit as part of the record the location of such starting materials to support these claims. The primary issue that remained unresolved with respect to the compounds was the identity of the substituents R2 and R3 in claim 1. The examiner continued to maintain his position based on the rejections of record, that the full scope (the "3-8 membered saturated heterocyclic ring optionally interrupted by one or two atoms selected from the group consisting of oxygen, sulfur and nitrogen") was not enabled. With respect to claim 4 being rejected under enablement, the examiner notified the applicant that this claim was improperly rejected on that basis and save for the double patenting rejections was allowable if placed in proper independent form. In regards to the claims drawn to the treatment (claims 19-26), the applicant's were of the opinion that the claims were fully enabled based on the prophetic assays of the specification. The examiner pointed to the rejections of record and the scientific documents relied upon therein to show the general lack of predictability of animal models and the poor correlation of in-vitro cell based assays with treatment. While a long list of prophetic animal studies were included in the specification, when asked by the examiner where the data for the compounds of the instant claims could be found in the specification no response was received. However, Mr. Madge said that these compounds were tested, although he did not point out in which assays or which compounds. The examiner acknowledged that TRPV1 antagonists were valid therapeutics for pain and upon verification of the data alluded to by Mr. Madge, the compounds would likely be enabled for the treatment of pain. With respect to the other diseases, namely COPD and urological disorders, the examiner maintained his position for the reasons of record.

Summary of Record of Interview Requirements

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135, (35 U.S.C. 132)

37 CFR § 1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required. The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted.
- 2) An identification of the claims discussed.
- 3) An identification of the specific prior art discussed.
- 4) An identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the interview Summary Form completed by the Examiner.
- 5) A brief identification of the general thrust of the principal arguments presented to the examiner.
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) A general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.